

EXHIBIT C
Part 1 of 3

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration)
Hearing of:) CDC Number E-17284
PABLO AGRIO)
_____)

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

DECEMBER 06, 2005

1:58 A.M.

PANEL PRESENT:

TOM SAWYER, Presiding Commissioner
BRUCE MITCHELL, Deputy Commissioner

OTHERS PRESENT:

PABLO AGRIO, Inmate
PAT FOX, Attorney for Inmate
PHYLLIS SHESS, Deputy District Attorney
LAURA MORTON, Translator
MS. MEDINA, Mother of victim
JOHN BARNES, Victim Services Coordinator
Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____ No See Review of Hearing
_____ Yes Transcript Memorandum

Felicia Townsend, Peters Shorthand Reporting

INDEX

	<u>PAGE</u>
Proceedings.....	3
Case Factors.....	12
Pre-Commitment Factors.....	22
Post-Commitment Factors.....	41
Parole Plans.....	25
Closing Statements.....	78
Recess.....	97
Decision.....	98
Adjournment.....	106
Transcriber Certification.....	107

--oOo--

1 P R O C E E D I N G S

2 DEPUTY COMMISSIONER MITCHELL: We're on
3 record.

4 PRESIDING COMMISSIONER SAWYER: Thank
5 you. This is a subsequent parole consideration
6 hearing for Pablo Agrio. Did I pronounce that
7 correctly?

8 INMATE AGRIO: Yes

9 PRESIDING COMMISSIONER SAWYER: Agrio.
10 Thank you. CDC number E-17284. Today's date is
11 Tuesday December 6, 2005. The time is 1:58
12 p.m., correctional training facility in Soledad.
13 The date received is 5/15/1989. The date -- the
14 life term started in 5/1/ of 1990, the
15 commitment county is San Diego. The offense was
16 murder in the second degree with a use of a
17 firearm, case number CR, Charles Robert, 95364
18 count number one is 187 of the penal code as
19 well as 12022.5. The term was 15 to life plus
20 two years. Minimum eligible parole date is 4/30
21 of the year 2000. This hearing is being tape
22 recorded. For the purpose of voice
23 identification, each of us is required to state
24 our first and last name, spelling our last name.
25 When it comes to your turn Mr. Agrio, you spell
26 your last name and then also give us your CDC
27 number, okay? Okay. I'll start. Tom Sawyer S-

1 A-W-Y-E-R, Commissioner.

2 **DEPUTY COMMISSIONER MITCHELL:** Bruce
3 Mitchell, M-I-T-C-H-E-L-L, Deputy Commissioner.

4 **TRANSLATOR MORTON:** Laura Morton, M-O-
5 R-T-O-N, Translator Support Person.

6 **MS. MEDINA:** (Indiscernible) M-B-O-R-A-
7 M-E-V-A-N-I, (indiscernible) mother.

8 **DEPUTY DISTRICT ATTORNEY SHESS:** Phyllis
9 Shess, S-H-E-S-S, District Attorney, County of
10 San Diego.

11 **CORRECTIONAL COUNSELOR BARNES:** John
12 Barnes, B-A-R-N-E-S, Correctional Counselor
13 Victim Services Coordinator.

14 **ATTORNEY FOX:** Pat Fox, F-O-X, Attorney
15 for Mr. Agrio.

16 **INMATE AGRIO:** Pablo Agrio, A-G-R-I-O,
17 Echo, 17286.

18 **PRESIDING COMMISSIONER SAWYER:** Thank
19 you. We also have two correctional peace
20 officers in the room for security purposes. The
21 record reflects that you signed a BPT form 1073,
22 which is a reasonable accommodation notice in
23 request in accordance with the provisions of the
24 American With Disabilities Act. You signed it
25 on 1/13/ of 05. I'm going to send this over to
26 you if you and your attorney can look at it and
27 make sure the information is (indiscernible) and

1 correct. I do notice that for the record you're
2 wearing glasses, do you need those to read Mr.
3 Agrio?

4 **INMATE AGRIO:** Yes, sir.

5 **PRESIDING COMMISSIONER SAWYER:** Okay.
6 That is considered a disability but -- of which
7 quite a few of us have. Is the information
8 current and correct on that, sir?

9 **INMATE AGRIO:** Yes.

10 **PRESIDING COMMISSIONER SAWYER:** Okay.
11 May I have that back, please? You can see that
12 all right with those glasses, sir?

13 **INMATE AGRIO:** Yes, I can.

14 **PRESIDING COMMISSIONER SAWYER:** Okay,
15 very good. Also, your counsel has given us a
16 copy of the accommodations for disabilities,
17 which we've talked a little about and then the
18 outline for the hearing procedure that we
19 normally -- I would normally read as long as the
20 inmate's rights and confidential material. It's
21 been signed by today December 5 -- December 6,
22 05, and it's signed by your attorney, Patricia
23 Fox, and you. Do you understand what this was
24 for? Did she talk to you about this?

25 **INMATE AGRIO:** Yes, I do.

26 **PRESIDING COMMISSIONER SAWYER:** Okay.
27 And you're going to waive the reading of the

1 disabilities hearing transcripts -- or the
2 hearing procedure, the rights have all been met?

3 **ATTORNEY FOX:** Yes.

4 **PRESIDING COMMISSIONER SAWYER:** Okay.

5 Very good, thank you.

6 **ATTORNEY FOX:** You're welcome.

7 **PRESIDING COMMISSIONER SAWYER:**

8 Commissioner Mitchell, is there any confidential
9 material to be used in this hearing.

10 **DEPUTY COMMISSIONER MITCHELL:** There is
11 confidential, but not that it will be used.

12 **PRESIDING COMMISSIONER SAWYER:** Okay,
13 very good. I'm going to pass over Exhibit One,
14 Counsel, this is the hearing checklist and if
15 would pass it on to the district attorney, Ms.
16 Shess, did I pronounce that right?

17 **DEPUTY DISTRICT ATTORNEY SNESS:** Shess.

18 **PRESIDING COMMISSIONER SAWYER:** Shess.

19 **ATTORNEY FOX:** Yes, I do have the
20 documents. Additionally, I was served with a
21 letter for the officer of the district attorney
22 just today, so I'll be objecting to that, and
23 also from the officer of the chief of the police
24 that was just served on me today. There is also
25 an impact statement from the victim's mother,
26 and so I'd about to that being considered by the
27 panel today. I understand that the victim's

1 mother is here and I think perhaps she could
2 speak for herself today through her support
3 person, an interpreter. Also included are -- it
4 appears to be a packet of selective newspaper
5 reports as well as an investigator's report from
6 the San Diego Police Department, so I would be
7 objecting to all that. However, I did receive
8 it just today.

9 **PRESIDING COMMISSIONER SAWYER:** I'll
10 sustain that objection.

11 **ATTORNEY FOX:** Thank you, and --

12 **PRESIDING COMMISSIONER SAWYER:** In
13 violation the 10-day rule.

14 **ATTORNEY FOX:** That's correct, thank
15 you. Other than that, I have the items, and I
16 will pass the checklist to the deputy district
17 attorney.

18 **PRESIDING COMMISSIONER SAWYER:** And in
19 your packet there is -- or I should say in my
20 packet, which should be in your packet, there is
21 a letter from the City of San Diego dated
22 November 15, 2005, not that packet. In your
23 board packet under --

24 **ATTORNEY FOX:** Notices --

25 **PRESIDING COMMISSIONER SAWYER:** -- and
26 responses.

27 **ATTORNEY FOX:** The only letter I have

1 there is from Raymond Olaverrez. I have no other
2 official letters in my packet.

3 **PRESIDING COMMISSIONER SAWYER:** In the
4 board packet?

5 **ATTORNEY FOX:** In the board packet,
6 correct.

7 **PRESIDING COMMISSIONER SAWYER:** Well,
8 then I guess I won't be using them unless you --
9 is it okay if I read that letter from San Diego?

10 **ATTORNEY FOX:** No, I'd object to that.

11 **PRESIDING COMMISSIONER SAWYER:** Okay.

12 **ATTORNEY FOX:** Based on the 10-day
13 rule.

14 **PRESIDING COMMISSIONER SAWYER:** All
15 right. Thank you. Is there any other documents
16 to be submitted?

17 **ATTORNEY FOX:** Not that we haven't
18 already, however, if it develops through the
19 hearing that there are things that are not in
20 the Central File that are relevant, we'd ask
21 that we be granted leave to present them at that
22 time.

23 **PRESIDING COMMISSIONER SAWYER:** Okay.
24 Let the record reflect that I did receive from
25 you today a packet containing letters and a
26 booklet that says parole plans that you brought
27 in?

1 **ATTORNEY FOX:** Yes, that's correct. It
2 was prepared by Mr. Agrio.

3 **PRESIDING COMMISSIONER SAWYER:** Okay.

4 **DEPUTY DISTRICT ATTORNEY SHESS:** Does
5 counsel have a copy of that for the district
6 attorney?

7 **ATTORNEY FOX:** No.

8 **PRESIDING COMMISSIONER SAWYER:** I will
9 have a copy made for you and this also includes
10 letters of support, which you will have --

11 **DEPUTY DISTRICT ATTORNEY SHESS:** I do
12 have some letters of support, which likewise
13 I've just received today. I do not obviously
14 have a copy of that.

15 **PRESIDING COMMISSIONER SAWYER:** Okay.

16 **DEPUTY DISTRICT ATTORNEY SHESS:** Could
17 I ask for clarify case on one earlier point,
18 Commissioner?

19 **PRESIDING COMMISSIONER SAWYER:** Sure.

20 **DEPUTY DISTRICT ATTORNEY SHESS:** You
21 referred to the November 15, 2002, letter?

22 **PRESIDING COMMISSIONER SAWYER:** Five.

23 **DEPUTY DISTRICT ATTORNEY SHESS:** Oh.

24 **PRESIDING COMMISSIONER SAWYER:** Was
25 that in your packet.

26 **DEPUTY DISTRICT ATTORNEY SHESS:** The
27 November 15, 2002, letter is in my packet should

1 be --

2 PRESIDING COMMISSIONER SAWYER: Two or
3 five?

4 DEPUTY DISTRICT ATTORNEY SHESS: Two.
5 It should be in counsel's packet. It was used
6 at previous hearings and actually the current
7 letter, which the court I believe did sustain
8 the 10-day objection to, referred back to that
9 letter. I'm asking the board does consider the
10 November 15, 2002, letter certainly has been in
11 there for a number of years. With regard to the
12 parole plans packet, although I do not have a
13 copy. If I can get a copy before I would leave,
14 that would be fine. I don't want to delay the
15 hearing --

16 PRESIDING COMMISSIONER SAWYER: Okay.

17 DEPUTY DISTRICT ATTORNEY SHESS: -- to
18 have a copy made however.

19 PRESIDING COMMISSIONER SAWYER: Thank
20 you. And I also have a --

21 ATTORNEY FOX: No objections to the
22 2002 letter.

23 PRESIDING COMMISSIONER SAWYER: Pardon?

24 ATTORNEY FOX: No objections to the
25 2002 letter. I think it's in the Central File.

26 PRESIDING COMMISSIONER SAWYER: Thank
27 you.

1 **ATTORNEY FOX:** It's not practice of the
2 institution to include all past letters in our
3 slow. --

4 **PRESIDING COMMISSIONER SAWYER:** That's
5 correct.

6 **ATTORNEY FOX:** -- packets, so I don't
7 object to that one.

8 **DEPUTY DISTRICT ATTORNEY SHESS:** And
9 the 2002 letter includes with it photographs,
10 the videotape impact statement, the coroner's
11 report, and the autopsy report as a part of it.
12 And although this -- Mrs. Medina, of course,
13 will be making her comments whatever they making
14 be today. Those reflect her feelings in 1994,
15 and I think they're appropriately considered by
16 the panel.

17 **PRESIDING COMMISSIONER SAWYER:** Okay.
18 We'll see if we can kind that, and I will give
19 you -- when we're finished, I'll give you my
20 copy of the parole plans. How's that?

21 **DEPUTY DISTRICT ATTORNEY SHESS:** I
22 don't want to take the only one, Commissioner.

23 **PRESIDING COMMISSIONER SAWYER:** It's
24 not the only one.

25 **DEPUTY DISTRICT ATTORNEY SHESS:** Okay,
26 good.

27 **PRESIDING COMMISSIONER SAWYER:** We have

1 two (indiscernible)

2 DEPUTY DISTRICT ATTORNEY SHESS: That
3 would be good, thank you. Do you mind giving
4 her this one?

5 DEPUTY COMMISSIONER MITCHELL: No, not
6 at all.

7 PRESIDING COMMISSIONER SAWYER: Okay.
8 We solved that problem.

9 DEPUTY DISTRICT ATTORNEY SHESS: Okay.

10 PRESIDING COMMISSIONER SAWYER:
11 (Indiscernible) that's fine.

12 DEPUTY DISTRICT ATTORNEY SHESS: Thank
13 you.

14 PRESIDING COMMISSIONER SAWYER: It's
15 mostly letters; isn't it? And then the parole
16 plans are three or four pages?

17 INMATE AGRIO: Yes, sir.

18 PRESIDING COMMISSIONER SAWYER: Okay.
19 And we'll get down into that. I think I
20 probably have duplicates and triplicates between
21 my file, the ones that came in that you brought,
22 and the ones that I got in late May, so we'll
23 sort that out.

24 DEPUTY DISTRICT ATTORNEY SHESS: Okay.

25 ATTORNEY FOX: And Commissioner, could
26 I just finally before I get started ask for
27 clarification is the board then going to

1 consider the November 15, letter and its
2 attachments?

3 PRESIDING COMMISSIONER SAWYER: Of '02,
4 yes.

5 ATTORNEY FOX: Thank you.

6 PRESIDING COMMISSIONER SAWYER: Let me
7 have the documents then.

8 DEPUTY COMMISSIONER MITCHELL: The C-
9 File?

10 PRESIDING COMMISSIONER SAWYER: This is
11 not in the C. file. This will be sent in by the
12 D.A.'s officer impact statement, photographs?

13 DEPUTY DISTRICT ATTORNEY SHESS: Yes, I
14 have copies if --

15 PRESIDING COMMISSIONER SAWYER: We have
16 all of those.

17 DEPUTY DISTRICT ATTORNEY SHESS: Oh, I
18 thought you did, thank you.

19 PRESIDING COMMISSIONER SAWYER: We have
20 both the tape and the transcription of the tape.

21 PRESIDING COMMISSIONER SAWYER: All
22 righty then. Any other objections, Counsel?

23 ATTORNEY FOX: No, I think that handles
24 it for now.

25 PRESIDING COMMISSIONER SAWYER: Okay,
26 good. We'll just relax (indiscernible). Will
27 the inmate be speaking with the panel?

1 **ATTORNEY FOX:** Yes.

2 **PRESIDING COMMISSIONER SAWYER:** You'll
3 be speaking with the panel?

4 **INMATE AGRIO:** Yes, sir.

5 **PRESIDING COMMISSIONER SAWYER:** Okay.
6 Thank you. Would you raise your right hand,
7 sir? Do you solemnly swear or affirm that the
8 testimony you are about to give in this hearing
9 will be the truth, the whole truth, and nothing
10 but the truth?

11 **INMATE AGRIO:** I do.

12 **PRESIDING COMMISSIONER SAWYER:** Thank
13 you. And I'm going to be reading the summary of
14 the crime, which is very brief, but -- and then
15 I'll either read or ask the inmate if he'd like
16 to give me his version:

17 On the evening of 3/26/1988
18 approximately 11:30 p.m. Alma
19 Agrio was shot to death by Pablo
20 Agrio during a domestic
21 argument. She died from a
22 single gunshot wound to the back
23 of her head. Following the
24 shooting, Agrio called for
25 paramedics and police. Mrs.
26 Agrio was already dead by the
27 time they arrived.

1 Can you tell me what happened? Or would you
2 rather have me read it?

3 **INMATE AGRIO:** I would prefer if you
4 read it, sir, and I'll explain why. In the
5 past, when I've tried to speak to previous
6 panels about what happened, because of any
7 nervousness and anxiety about what's going on
8 here, I've had a tendency to ramble on and talk
9 about things that really weren't relevant, sir,
10 and what I end up doing is I get myself in
11 trouble, and I've talked to my attorney about
12 this, and I'm prepared to answer questions that
13 you ask of me but when it comes to the facts of
14 the crime, I would rather you just go by what's
15 in the record and I would stipulate to do that.
16 It item accurate and I accept everything that is
17 in there as being correct in truth or fiction of
18 what happened on that night.

19 **PRESIDING COMMISSIONER SAWYER:** Okay.
20 That's fair enough.

21 **DEPUTY DISTRICT ATTORNEY SNESS:**
22 Commissioner, I'm sorry to do this, but is he
23 accepting the facts of the offense as outlined
24 in the Appellate Decision, which would normally
25 be the factual basis that we would work with, or
26 simply the several summary lines, which you have
27 read. I just need to know which direction he's

1 going?

2 **PRESIDING COMMISSIONER SAWYER:** Okay.
3 She's asking me that question. And I'll -- the
4 question is the same to you. Is it the facts
5 from --

6 **INMATE AGRIO:** My feeling and it is
7 that the facts that you've read and the facts
8 that appear in the appellate version are both
9 accurate, and I don't have any objections to
10 either one of them.

11 **PRESIDING COMMISSIONER SAWYER:** Okay.

12 **DEPUTY DISTRICT ATTORNEY SHESS:** Thank
13 you.

14 **PRESIDING COMMISSIONER SAWYER:** Thank
15 you. During an interview with Agrio, he stated
16 that the version -- that his version of events,
17 as stated in the probation officer's report, are
18 still valid but with minor changes. Chancing
19 the words angry and infuriated for upset:

20 At about 5:00 p.m. Mrs. Agrio
21 had gone out with a girlfriend
22 to celebrate her impending
23 graduation from sheriffs
24 correctional officers school.

25 Mr. Agrio had made -- Mrs. Agrio
26 had made Agrio upset by
27 requesting permission from him

1 to go out while a third person
2 was present. Mrs. Agrio was
3 supposed to return home by 9:00
4 p.m. so she could take the
5 babysitter home. As the evening
6 progressed, Agrio became more
7 upset about his wife being out
8 partying. Around 8:30 p.m. he
9 took the babysitter home
10 returning to his own home at
11 proximately 9:00 p.m. At this
12 time, Agrio put the baby to bed,
13 took a shower, then dressed
14 because he decided to go out for
15 a drink on his own when his wife
16 came home. During the next hour
17 and a half, Agrio found himself
18 getting upset -- more upset
19 because his wife was late coming
20 home. She finally came home at
21 proximately 10:30 p.m. Agrio
22 could tell that she had been
23 drinking. She went to the
24 master bedroom with Agrio
25 yelling at her in regards to her
26 behavior. He did not argue --
27 she did not argue with Agrio but

1 seemed contrite. When she tried
2 to go to the bathroom, Agrio
3 would not let her go and held
4 her on the bed. Eventually
5 Agrio let her go to the
6 bathroom, but Agrio wouldn't let
7 her close the door as she used
8 it. She then reentered the bath-
9 -- bedroom from the bathroom.
10 She began to actively argue with
11 him requesting his authority as
12 to tell her what to do. At one
13 point, Agrio walked from the
14 bedroom and then she closed the
15 door. This further upset him.
16 Agrio kicked the door in causing
17 it to splinter and ruin parts of
18 the door jam. He grabbed her,
19 through her on the bed. She
20 grabbed the phone to call the
21 police but he took it from her
22 and put it in a drawer. While
23 doing so, she went to the
24 kitchen and tried to use the
25 kitchen phone. Agrio came after
26 her and grabbed that phone too.
27 She grabbed her car keys and

1 Agrio wrestled with her for
2 control of them. While
3 wrestling, they fell to the
4 floor. After getting up, she
5 followed Agrio to the bedroom
6 where Agrio attempted to put the
7 kitchen phone in the drawer.
8 She grabbed a jacket that had
9 been lying on the bed and began
10 hitting with it. When one blow
11 struck Agrio in the face, he
12 kicked her in the leg very hard.
13 He was also -- he was so upset
14 with her behavior that Agrio
15 began tearing up her graduation
16 announcements that were stacked
17 on the dresser drawer. As Agrio
18 tore up the invitations, he told
19 her that he'd already -- she
20 already done her partying that
21 she would not be going to the
22 graduation. At this point, she
23 went to the drawer, located in
24 the headboard, where guns were
25 kept. She took a gun out and
26 pointed it at him. Agrio
27 stopped tearing up the

1 invitations, ran towards her,
2 grabbed her hand and then got
3 around her. Pushing her to the
4 floor while trying to grab the
5 gun from her, Agrio was able to
6 grab the gun and pulled it away
7 from behind it discharged into
8 the back of her head killing
9 her. Agrio said his finger must
10 have been on the trigger and the
11 gun went off accidentally.

12 Is that what happened?

13 **INMATE AGRIO:** Yes, sir.

14 **PRESIDING COMMISSIONER SAWYER:**

15 Anything you want to clarify there or anything I
16 said wrong?

17 **INMATE AGRIO:** (Indiscernible)

18 **PRESIDING COMMISSIONER SAWYER:** I'm
19 sorry?

20 **INMATE AGRIO:** The only thing that I
21 would want to clarify in regards to what you
22 read there, sir, as to not confuse anyone here
23 is that in the past also we've -- I've had a
24 little problem with the use of the word
25 accident, and I just want to make it clear to
26 the panel, sir, that accidental shooting was my
27 legal defense. That was the defense that my

1 attorney presented in court, but that -- I've
2 always maintained since the day that I was
3 interrogated that the shooting was the result of
4 an unintentional act on my part and I just want
5 you to know that. That I'm not claiming that
6 the death was a result of an accident but it was
7 a result of an unintentional act on my part.

8 **PRESIDING COMMISSIONER SAWYER:** Uh-huh.
9 Okay. I've got a question for you that's not
10 addressed here? You were getting ready to go
11 out for a drink when she got home. Were you
12 drinking while you were at home?

13 **INMATE AGRIO:** No, sir.

14 **PRESIDING COMMISSIONER SAWYER:** You
15 hadn't had anything to drink before this
16 incident?

17 **INMATE AGRIO:** No, sir. I have with me
18 a copy of my opening brief on appeal and I have
19 reviewed the events of that day, and it is
20 clearly stated in that document that I did not
21 have anything to drink and the homicide
22 investigator stated that, and I have that with
23 me if you wish to see it, sir.

24 **PRESIDING COMMISSIONER SAWYER:** Did
25 they do a blood alcohol on you?

26 **INMATE AGRIO:** Yes, they did.

27 **PRESIDING COMMISSIONER SAWYER:** And

1 that result?

2 INMATE AGRIO: It came out negative.

3 PRESIDING COMMISSIONER SAWYER: Okay.

4 Any drugs?

5 INMATE AGRIO: No drugs.

6 PRESIDING COMMISSIONER SAWYER: Okay.

7 How old is your child at this time?

8 INMATE AGRIO: He was born in 1986.

9 That would make him about 19, I think.

10 PRESIDING COMMISSIONER SAWYER: I'm

11 sorry, at the time of the offense?

12 INMATE AGRIO: Oh, he was about a

13 little under two years old.

14 PRESIDING COMMISSIONER SAWYER: Was he

15 --

16 INMATE AGRIO: A little over two.

17 PRESIDING COMMISSIONER SAWYER: Was he

18 walking?

19 INMATE AGRIO: Yes.

20 PRESIDING COMMISSIONER SAWYER: And

21 where were the guns kept?

22 INMATE AGRIO: It's a big -- big bed.

23 It had a huge headboard with cabinets in them,

24 and I kept my service revolvers there. You

25 know, in the morning when I got dressed, I just

26 reached over and take with me what I was going

27 to take with me to work.

1 PRESIDING COMMISSIONER SAWYER: Uh-huh.

2 Was the baby ever on the bed?

3 INMATE AGRIO: No, it was a two story
4 condominium, you know, the master bedroom was
5 downstairs --

6 PRESIDING COMMISSIONER SAWYER: Right.

7 INMATE AGRIO: -- and the baby -- and
8 the babysitter lived upstairs.

9 PRESIDING COMMISSIONER SAWYER: Okay.

10 But was the baby ever on your bed?

11 INMATE AGRIO: No.

12 PRESIDING COMMISSIONER SAWYER: Never?

13 INMATE AGRIO: Not when -- with guns
14 around, not if that is what you are employing.

15 PRESIDING COMMISSIONER SAWYER: That's
16 where I'm going.

17 INMATE AGRIO: No, not like that.

18 PRESIDING COMMISSIONER SAWYER: Okay.

19 So you didn't feel you needed the guns to have a
20 handcuff through them or be unloaded?

21 INMATE AGRIO: Well, in retrospect that
22 you have been a good idea, but no at the time
23 I'd have to say that I didn't have any safe-use
24 measures because I kept the revolver in my
25 holster.

26 PRESIDING COMMISSIONER SAWYER: Uh-huh.

27 INMATE AGRIO: My Sam Brown is what

1 they call it.

2 PRESIDING COMMISSIONER SAWYER: Right.

3 INMATE AGRIO: With the hook on it, so
4 -- and it was pretty high up, so at the -- I
5 felt that that was safe enough for that
6 particular time.

7 PRESIDING COMMISSIONER SAWYER: The
8 whole Sam Brown fitted in the drawer?

9 INMATE AGRIO: Yes, sir.

10 PRESIDING COMMISSIONER SAWYER: Fit in
11 the drawer.

12 INMATE AGRIO: It's not a drawer. It
13 was like just a cabinet with a door that just
14 kind of lodged to it.

15 PRESIDING COMMISSIONER SAWYER: Okay.
16 And you obviously had been trained? You went
17 through the academy?

18 INMATE AGRIO: Yes, sir.

19 PRESIDING COMMISSIONER SAWYER: And how
20 long were you in the academy?

21 INMATE AGRIO: I think the academy
22 lasted close to two months, maybe a little bit
23 over that.

24 PRESIDING COMMISSIONER SAWYER: And was
25 gun safety and weapons qualifications part of
26 your academy?

27 INMATE AGRIO: Yes, sir.

1 **ATTORNEY FOX:** And prior to that I
2 believe he served in the Marines?

3 **INMATE AGRIO:** Yes, ma'am.

4 **ATTORNEY FOX:** And did you receive
5 weapons training there as well?

6 **INMATE AGRIO:** I did.

7 **PRESIDING COMMISSIONER SAWYER:** Okay.
8 Thank you.

9 **ATTORNEY FOX:** Your welcome.

10 **PRESIDING COMMISSIONER SAWYER:**
11 Obviously you have no rap sheet?

12 **INMATE AGRIO:** No, sir.

13 **PRESIDING COMMISSIONER SAWYER:** Okay,
14 only the commitment offence. It says here you
15 were born in Panama?

16 **INMATE AGRIO:** Yes, sir.

17 **PRESIDING COMMISSIONER SAWYER:** Okay.
18 At age 17 you came to the United States with
19 your mother. After arriving in this country,
20 you joined the Marines and served for seven
21 years?

22 **INMATE AGRIO:** Yes, sir.

23 **PRESIDING COMMISSIONER SAWYER:** Toward
24 the end of your career, you applied to the San
25 Diego Police Department and had been accepted,
26 and educationally you have a Bachelors of Arts
27 degree.

1 **INMATE AGRIO:** Public Administration.

2 **PRESIDING COMMISSIONER SAWYER:** Public
3 Administration, so that's a BS. And did you get
4 that before you within the to the police
5 department?

6 **INMATE AGRIO:** No, I worked. While I
7 was working I would go to school at night.

8 **PRESIDING COMMISSIONER SAWYER:** Uh-huh.
9 Did you get that before the commitment offence?

10 **INMATE AGRIO:** Yes, sir.

11 **PRESIDING COMMISSIONER SAWYER:** Okay.

12 **INMATE AGRIO:** When the offense
13 happened, I was attending law school at night
14 also.

15 **PRESIDING COMMISSIONER SAWYER:** I see.
16 Which school did this Bachelor of Science
17 degree?

18 **INMATE AGRIO:** National University out
19 of San Diego.

20 **PRESIDING COMMISSIONER SAWYER:** Okay.
21 Family consist of an elderly mother who lives in
22 Philadelphia. Is she still with us?

23 **INMATE AGRIO:** Yes.

24 **PRESIDING COMMISSIONER SAWYER:** Okay.
25 Two brothers, one living and one dead. Where
26 does your brother live?

27 **INMATE AGRIO:** My brother lives in

1 Philadelphia also.

2 PRESIDING COMMISSIONER SAWYER: Okay.

3 Your father lives somewhere in Costa Rica?

4 INMATE AGRIO: He was in Panama at the
5 time. I'm not sure if he's still around or not
6 though.

7 PRESIDING COMMISSIONER SAWYER: Okay.

8 You haven't had any contact with him?

9 INMATE AGRIO: No, sir.

10 PRESIDING COMMISSIONER SAWYER: Do you
11 have contact with your mother and your brother?

12 INMATE AGRIO: Constantly.

13 PRESIDING COMMISSIONER SAWYER: Okay.

14 And how about your -- is it a son or a daughter?

15 INMATE AGRIO: Son?

16 PRESIDING COMMISSIONER SAWYER: Son.

17 INMATE AGRIO: Junior.

18 PRESIDING COMMISSIONER SAWYER: Are you
19 in contact with him?

20 INMATE AGRIO: No, sir, unfortunately
21 not.

22 PRESIDING COMMISSIONER SAWYER: Okay.

23 You'd been married less than a year at the time
24 of your wife's death?

25 INMATE AGRIO: Yes, sir.

26 PRESIDING COMMISSIONER SAWYER: And you
27 claim no alcohol or drug abuse?

1 **INMATE AGRIO:** None, sir.

2 **PRESIDING COMMISSIONER SAWYER:** No
3 psychological problems noted as well?

4 **INMATE AGRIO:** No, sir.

5 **PRESIDING COMMISSIONER SAWYER:** Okay.

6 Okay, parole plans. Your parole plans have
7 changed from your '03, hearing. You listed a
8 Rosy Hall --

9 **INMATE AGRIO:** No sir, if
10 I may clarify sir?

11 **PRESIDING COMMISSIONER SAWYER:** Yes.

12 **INMATE AGRIO:** The parole plans remain
13 the same, sir. I have since remarried to
14 Cathleen Boyd. She lives out of Morro Bay and
15 she's been supporting me since 1992, and those
16 are my parole plans. I would like to go live
17 with her if I'm found suitable for parole.

18 **PRESIDING COMMISSIONER SAWYER:** Uh-huh.

19 **INMATE AGRIO:** However, during one of
20 my previous hearings, the commissioner stated
21 that if I was to ever to be found suitable for
22 parole that I would have to have parole plans
23 for San Diego San Diego, because of that I
24 contacted my dear friend Rosy Hall and asked her
25 if in the event that I was -- that I needed to
26 parole to San Diego, would she take me in and
27 she said yes, she would love to, and that's the

1 reason why I've listed her as an alternative,
2 and of course as you notice there there's also
3 the alternative of Philadelphia where my mom
4 resides where I have many friends and supporters
5 and if I was to go will that they would also
6 take care of me.

7 **PRESIDING COMMISSIONER SAWYER:** Okay.
8 You do indicate here alternatively if you have
9 to reside in San Diego with Rosy Hall -- what's
10 your relationship to Rosy Hall?

11 **INMATE AGRIO:** I met Rosy -- she's a
12 friend. I met her when I was stationed in San
13 Diego with the Marines and we became roommates,
14 and I lived with her for a long time until I was
15 transferred to Camp Pendleton, but we've
16 remained close friends since then, and she's
17 been a star supporter of mine and was there with
18 me during the time of this tragedy, sir.

19 **PRESIDING COMMISSIONER SAWYER:** Did she
20 live with you at the time?

21 **INMATE AGRIO:** Not at the time, but I
22 lived with her prior to that --

23 **PRESIDING COMMISSIONER SAWYER:** Yeah.

24 **INMATE AGRIO:** -- as roommates when I
25 was in the Marines.

26 **PRESIDING COMMISSIONER SAWYER:** Okay.
27 And how's Cathleen feel about Rosy?

1 **INMATE AGRIO:** She doesn't know about
2 her.

3 **PRESIDING COMMISSIONER SAWYER:** Okay.
4 I'm not going to tell.

5 **INMATE AGRIO:** And by that I mean to
6 say that she doesn't know that she's part of my
7 parole plans in the event that I have to go to
8 San Diego, but she knows Rosy, yes.

9 **PRESIDING COMMISSIONER SAWYER:** Oh,
10 okay.

11 **INMATE AGRIO:** They met.

12 **PRESIDING COMMISSIONER SAWYER:** She
13 just doesn't know about the deal?

14 **INMATE AGRIO:** No, because she's
15 expecting me to fully come to Morro Bay and live
16 with her.

17 **PRESIDING COMMISSIONER SAWYER:** Okay.

18 **INMATE AGRIO:** And I'm just using that
19 as an alternative because I wouldn't want to be
20 denied parole just because I don't have parole
21 plans for San Diego..

22 **PRESIDING COMMISSIONER SAWYER:** Right.
23 Well, the policy of the board is to generally
24 speaking, and it's primarily driven by local law
25 enforcement and the D.A.'s officer, is that they
26 don't want what's referred to as imports, people
27 from large counties going to small counties, do

1 you see what I mean?

2 **INMATE AGRIO:** Yes, sir.

3 **PRESIDING COMMISSIONER SAWYER:** Because
4 a lot of people would say yeah if I'm getting
5 out I've committed from San Diego or Los Angeles
6 or Orange and I'd sure like to go to -- I'd sure
7 like to live in Redding, you know, or Shasta
8 County so all of a sudden Redding's got a lot
9 more parolees from other counties than they've
10 committed into and, so it's the policy of CDC to
11 try to keep -- keep that down, however, this
12 board has the authority to order and it's not
13 uncommon for us to order a person to another
14 county and the -- we have to have a reason.
15 obviously and usually it's because of support.
16 It's because you're going to be more likely to
17 succeed, you know, I'll give you an example I
18 person who has support in -- in Ventura County,
19 because their family's there or they can live
20 there they got a job perhaps there and all these
21 things are positive factors, if they go back to
22 where they came from in Los Angeles and they
23 hook up with their old gang and start running
24 with their old gang then you got -- it's obvious
25 isn't it?

26 **INMATE AGRIO:** Yes.

27 **PRESIDING COMMISSIONER SAWYER:** So in a

1 case like that we might order a person to go to
2 Ventura County. And out-of-state transfers are
3 very difficult. It takes a long time to do that
4 because usually what we're doing is we're
5 exchanging so if Pennsylvania has somebody that
6 they wanted to California vice versa we exchange
7 -- exchange parolees. It says here your family
8 will provide financial support and aid to you
9 transportation living expenses. I'm sure that's
10 in the letters?

11 **INMATE AGRIO:** Yes, sir.

12 **PRESIDING COMMISSIONER SAWYER:** Okay.

13 Also it indicated offers of employment in
14 attached letters. You would -- in addition
15 during my incarceration I have upgraded
16 vocationally, educationally contained --
17 obtained a paralegal certificate from Blackstone
18 School of law in 1996. Is that an accredited
19 school?

20 **INMATE AGRIO:** I believe it is, yes,
21 sir.

22 **PRESIDING COMMISSIONER SAWYER:**

23 Graduated from North Western California,
24 University School of Law in 1999, completed
25 vocational computer refurbishing in 2001,
26 vocational data processing in 2002, also
27 attended several writing journalism classes

1 between 2001 and 2002. I feel with my law
2 degree, my knowledge of computer, my prior
3 professional experience provide a marketable
4 skill, which enable me to secure employment
5 quickly in the event of the present job offers
6 have expired upon release. As indicated above
7 education, you got your law degree, paralegal
8 certificate, and your certificates in the
9 vocations I just talked at as well as a BA from
10 the National University in San Diego, completed
11 one-on-one therapy at CMC and at Soledad State
12 Prison, completed parenting, anger management,
13 participated in Impact, narcotic's anonymous as
14 well as a 12-step recovery -- spiritual recovery
15 program from Miracle's Prison Ministry in
16 Wisconsin, still involved in the latter two and
17 you're a member of the California State Poetry
18 Society, is that right?

19 INMATE AGRIO: Yes.

20 PRESIDING COMMISSIONER SAWYER: Okay.
21 Attached is a résumé. I'm not going to read the
22 whole résumé but it's nicely done. I have some
23 letters of support March 25, 2004, from Steven
24 Roberts. This is from Bellsure and Becker
25 Attorneys at Law in San Louis Obispo, so you
26 helped this organization? You've helped this
27 attorney translate documents for the -- his

1 clients?

2 **INMATE AGRIO:** No, sir. The law firm
3 of Bellsure and Becker are known to my wife Mrs.
4 Cathleen Boyd, and they're aware of my
5 qualifications, my law degree etcetera, and they
6 would like to hire me in the event that I --

7 **PRESIDING COMMISSIONER SAWYER:** Oh,
8 okay.

9 **INMATE AGRIO:** -- get released.

10 **PRESIDING COMMISSIONER SAWYER:** Okay.

11 **INMATE AGRIO:** They feel that my
12 bilingual skills will be an asset to their law
13 firm in other words.

14 **PRESIDING COMMISSIONER SAWYER:** That's
15 correct. Okay, I have another letter from Mr.
16 Becker.

17 **INMATE AGRIO:** It's probably
18 essentially the same one only the other one is
19 more recent one.

20 **PRESIDING COMMISSIONER SAWYER:** Yeah,
21 this -- the Becker letter is 2000, this is 2004
22 from Mr. Roberts. The Next Step Program.

23 **INMATE AGRIO:** This is a professional
24 company that works with ex felons and I have
25 contacted -- hired them to do research in the
26 San Diego area. In the event that I'm paroled
27 to the San Diego area, they have promised that

1 they would have no trouble at all me employment
2 based on my skills.

3 **PRESIDING COMMISSIONER SAWYER:** Uh-huh.
4 And this is the letter you sent them?

5 **INMATE AGRIO:** Yes, sir.

6 **PRESIDING COMMISSIONER SAWYER:** The
7 Next Step?

8 **INMATE AGRIO:** Right, sir.

9 **PRESIDING COMMISSIONER SAWYER:** Okay.
10 That was dated August 27, 2002, and then a
11 letter back from them from Next Step. They
12 said, as you say, that we found that there will
13 be numerous law firms in San Diego interested in
14 you. And then there's a letter here that says
15 that they sent a letter, and another letter
16 duplicate actually from Mr. White in 2002.

17 **INMATE AGRIO:** Most of those were the
18 same thing but they're just different dates.

19 **PRESIDING COMMISSIONER SAWYER:** Yeah,
20 this is October 2002, from them and then we've
21 got Gordon and Bails Law Office.

22 **INMATE AGRIO:** If I'm not mistaken, I
23 believe that one is from Philadelphia and that -
24 - again that applies to the alternative plan in
25 the event that I have to go to Philadelphia. I
26 would also have an offer of employment there.

27 **PRESIDING COMMISSIONER SAWYER:** They

1 talk about part time right now.

2 INMATE AGRIO: Yes, sir.

3 PRESIDING COMMISSIONER SAWYER: Okay.

4 And then a letter from your wife Cathleen Boyd
5 dated October 21, 2002. When did you marry her?

6 INMATE AGRIO: 1997.

7 PRESIDING COMMISSIONER SAWYER: Okay.

8 There's supposed to be a more recent letter,
9 sir, I think that I never received it, but I'm
10 quite sure that she forwarded it to the board.

11 PRESIDING COMMISSIONER SAWYER: Okay.

12 November 26, 2005. Let me just -- because you
13 have so many letters here. I'm just going to
14 kind of go easy on them, okay? This letter is
15 dated October 22, 2002, and she talks about your
16 accomplishments and certainly in support. Feels
17 you are suitable for parole. Then I have a
18 letter from Dan Mrotek, M-R-O-T-E-K, Attorney at
19 Law in San Louis Obispo and he's -- wrote this
20 letter of support. Has he been an attorney for
21 you?

22 INMATE AGRIO: He helped work with me
23 in issues of Rita Havius Corpus (phonetic) in
24 regards to previous hearings --

25 PRESIDING COMMISSIONER SAWYER: Uh-huh.

26 INMATE AGRIO: -- and he's familiar
27 with my case, sir.

1 **PRESIDING COMMISSIONER SAWYER:** Okay.

2 And then this is from Juana, J-U-A-N-A, Agrio
3 that's your mother?

4 **INMATE AGRIO:** Juana Agrio, yes, sir.

5 **PRESIDING COMMISSIONER SAWYER:** Okay.

6 She resides in Philadelphia. She's certainly in
7 support, talks about what you've done and this
8 is November 14, 2005, and then Nilsa, N-I-L-S-A-
9 U-R-E-N-A, in Philadelphia. She's your niece?

10 **INMATE AGRIO:** Yes, sir.

11 **PRESIDING COMMISSIONER SAWYER:** Okay.

12 She's in support, and that's dated November 12,
13 2005. I have a letter from Marie Urena, Pablo's
14 sister-in-law. She certainly is in support. I
15 have a letter from Ernesto Wilson, a friend of
16 yours?

17 **INMATE AGRIO:** Yes, sir.

18 **PRESIDING COMMISSIONER SAWYER:** You
19 attended high school. It says you deserve a
20 second chance. It's dated November 20, 2005.
21 Rosy's kids?

22 **INMATE AGRIO:** Yes, sir.

23 **PRESIDING COMMISSIONER SAWYER:** Okay,
24 Rosy Hall's kids Kimberly and Jamar, November 7,
25 2005, San Diego. In support Rosy Hall she
26 indicates she would be -- you would be welcome
27 to live with her and her family. Does she have